App. F. IX-4

1926-27

File No. 4-26

Previous References

LB 4-26/34, 39, 53

(LB)

Serial Nos. 45, 51
52 & 54

Later References

LB 1926-27 pp 30, 31

LB 83-27 pp 9 & 10, 14, 18 & 20.

Mg 312-35-1-3

General and Revenue Secretariat.

Serial Nos. 45, 51, 52 & 54

Part B for February 1928.

SUBJECT

Right of collecting fees at the weekly Shandy held at Madiwala

---

To the President. D. B. Bangalore

No. L. 4856/LB. 4-26-54 dt 21.2.1928

States that Sec 54 of Mysore D. B. Regulation applies only to all markets constructed and maintained out of D. funds etc. & that the present one cannot be deemed to be a public market -

30/3/28.

App. F. III—2]

General and Revenue Secretariat. | L.B File No. 4 of 1926.

Serial No.	
45	Letter No D2-Dis 270/26-V dated 21.6.27 from the President, Dist Board of Bangalore. States that the petitioner and his Counsel were heard at great length, that the petitioner and his Counsel were enjoined that the Order in which Pleader is being held is a Court of general Land, that the Boy of Fees with the Chairman of Court was also communicated that the Dist Board would consider the case if the petitioner by the notification [illegible] that the holding of Shanbhag and the Chairman of Fees are cancelled and the petitioner has stated to pursue redress in the Civil Court the right of electing for a Shanbhag also at Nagavala Fees will by public auction.
	Petition dt 2-7-27 from M. N. R. Co and Fees, Vanapilla Street, Bangalore City. Represents that from the proceedings of the District Board of the 4th June 1927 it is seen that the Board are not prepared to grant the licence to hold the Shanbhag Mahazala after [illegible] last May by the Fees Court and requests that proceedings may be issued for the right of the Fees

NOTE—Contn. sheet.

63/L

(2)

General and Revenue Secretariat. | File No. 1 of 1926.

Serial No.

and requesting him to ... that orders may be issued to the President of the District Board to cancel the sale of the right of keeping fish of Kalwari on the already held by him or to grant a provisional lease in favour of Gulam Ali the said Lease, pending final orders of Govt in the matter.

The President of the Distt Board has stated that if the petitioner proves his title for holding the Lease at the Lease and for collecting fees also he will be paid out of the entire revenue rupees ~~Four hundred~~ three hundred in accordance with the resolution of the Distt Board 1/4 in Govt villages and 1/3 in alienated villages, and that the Shandy should be under the control of the District Board.

2 The main file on the subject has been pending with Law Secy for opinion.

3 If approved, these papers may also be sent to him in continuation for expediting his opinion in the matter.

6/7/27 Submitted. Pl. 4 in continuation of previous file. MW 6/7

Secy Law Depts.

5 Vide Ld Secy's opinion in the linked file.

Hiring out without ... of right of ... quarry land

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

General and Revenue Secretariat.

File No. 4 of 1926.

Serial No.

6 The Dt Board seems in this case to have interfered with an existing right enjoyed by a private individual.
The Petitioner's ancestor was allowed to hold the Shandy. This implied the levy of a small fee from those who sold in the Shandy. The previous Dt Board had allowed the arrangement to continue. The present Dt Board acting under the new Regn takes the Shandy out of the hands of the private owner. There is nothing in the regulations authorising such action. The Board has to give a license for holding the Shandy but this does not mean that it can confiscate the right enjoyed by the person ~~to whom it should give~~ who applies for the license. It must either give the license — subject to such conditions as will ensure public safety & sanitation but without interfering with existing rights — or refuse the license and run the risk of an action in Court. To take the Shandy out of the private owner's hands is mere high handedness.

7 Instructions may perhaps issue in this case that the Shandy may be left in the hands of the petitioner subject to conditions considered necessary in the interests of public health and safety and that in similar cases the Dt Bd can only give or not give the license for reasons to be stated

Instructions of law?

See 100 of the Dt Board Regulations

NOTE—Contn. sheet.

General and Revenue Secretariat. LB File No. 4 of 1926

Serial No.

and should not take shares out of the hands of private owners and interfere with private rights

mw 29/7

995/31/7

Asst Member
Asst Secy Law Depts } & If the private rights are interfered with, party aggrieved has a right of suit in a Civil Court. Govt have, I am afraid, power to interfere. Kind attention is invited to my opinion in this case

SA 30/7
mw 30/7

9 I shall be glad if Law Secy will please note on the legal aspect of rights of the parties in a manner as does this opinion make Govt to the Pet. If pet has a strong legal case, it will be a pity to waste the money of the Dr Board in defending a suit. Govr having framed the case, Govr, well should abide

be 31/7 mw

10 Law Secy

SA 1/8

11 As the question raised is an important one of general application, I have since made enquiries regarding the steps taken to preserve fish for licenses under Sec 56(2) & to frame R. & bye laws under Sec

WD 0324—GPB—60,000—24-5-27

App. F. III—2]

General and Revenue Secretariat. | File No. 4 of 192 L

Serial No.

5

12 I find that the Dt Bds have not framed Bye-laws under Section 57 of the Regn. On the question raised by the Secretariat to fix the fees for licenses to be issued by DtBds to continue to hold the private markets, the Dt Bd Bangalore have forwarded a resolution to the effect that the private markets should be under their control, that the private persons enjoying the right to collect fees in Shandies should be paid ¼th of the entire income in Govt Villages & ⅓rd in alienated villages.

13 In other words the Dt Bds claims to have a right to have a portion of the ~~income~~ income derived by the private persons who have acquired a right to hold markets on their property. Thus interfere with the private vested right

~~This question is~~

14 It appears to me that the attitude taken up by the Dt Bd is subversive of the principle underlying the Dt Bd Regn & contrary to its main provisions.

15 In the first place the Regulation has not given the Bds any power to interfere with the private rights of any person, nor has it deprived the vested rights of any

NOTE—Contn. sheet.

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. | 44 File No. 4 of 1926.

Serial No.

16 The private markets in the State have not been visited in them.

17 In the second place no St Bds have not been given any power to fix any fee they liked for the grant of a license to continue to hold a market.

18 Under sub-sec 2 of sec 56, Govt have reserved to themselves to fix a fee at such rates as may be prescribed by the rules framed under the Regulation

19 Even if the resolution be taken as fixing a fee of 3/4 of the entire income, it is ultra vires.

20 As no rule is framed by Govt. St. Bds have no power to levy any fee on a license to be issued by them.

21 Since the Bye-laws fixing the Conditions on which licenses should or should not be granted, have not been framed St Bds are not justified in interfering with the private markets & tell the income by question refusing to grant the license applied for.

It may therefore be desirable to call upon the St Bds to submit Bye-laws for sanction of Govt at once, explaining

Submission of their opinions regarding the fixing of fees

NOTE—Contn. sheet.

WD 0324—GPB—60,000—24-5-27

638

General and Revenue Secretariat. | File No. 4 of 192 6.

Serial No.

to Licenses to enable the Govt to frame
& rules on this behalf.

We do not do more than inform the
they should not interfere with
the private rights of parties
in an arbitrary manner without regard
to the provisions of the Regulation &
thus put the Govt into heavy loss
by giving cause of action for private
persons to ventilate their grievances in
a Court of Law.

2) Under Sec 91 Govt have power to amend
any resolution which is not in Conformity
with the provisions of the Regulation.
It is a question for consideration
whether the Resolution of the Govt
should not be amended in conformity
with Law.

1530/2018

1st member.

19-5

V/ Dist Bd may be informed
as above; & asked to take
necessary action. This is enough
at present.

NOTE—Contn. sheet.

WD 0324—GPB—60,000—24-5-27

1456 pt 1 BR 63 L

App. F. III—2]

(5

General Se

d Revenue ariat. | 4 File No. 4 of 1926.

Serial No.

Typed draft is submitted

24 29(8)27 66.

24 Please type as revised and put up today

Sd 3/9.

27 A typed revised draft is subd.

24 3/9/27

24 for appl

Sd 3/9

Asst Member)

1914 3/9

29 Issue ~~This~~ New Leave & after issue frame rules

Earl

30 for pensal bepreisone & Law fees)

~~Dr~~ B/G MS 4/9

A.S. Asst.

Reg 9/9 - 31 Sem. may issue

8d 14.9.27.

£ 1/9/27.

32 Subd The file may be sent to L.S.G for issue

Mellis

15/9/27

Sd 15/9

L.S.G)

33 Issue as draft is approved

Sd 15/9

MS 16/9

-Contn. sheet.

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. File No. 4 of 1926.

Serial No.	
51	Letter No. C 16378 17-9-27 from the President, District Board of Bangalore. States that in the circumstances stated, the petitioner may be permitted to hold the Shandy as heretofore until the necessary rules for the Control of Shandies have been framed. As the work of framing rules for the Control of private markets involves study of similar rules obtaining in Bombay, Pa[illegible] and other places, I request that time may kindly be allowed to take up this work after my return from Mysore or Cam[illegible] may be permitted 28/9/27 G. 35. Yes - but shd be begun immediately thereafter and completed early. 29/9. MW 29/9.
52	Letter No. C 215/27-28 of 29/10/27 from the President, Dist Board of Bangalore. Requests in the circumstances stated, that the G.O. of the 17th September 1927 may be reconsidered in view of the fact that an exceptional treatment in the case of Nadavala Sandy is likely to lead to many complications

Action has been taken separately to frame rules for the Control of private markets,

29/11

NOTE—Contn. sheet

(10

General and Revenue Secretariat. | L.B File No. 4 of 1926.

Serial No.

Complications in the Control and maintenance of Rest Shandies.

3rd Read their Office letter No. L 1637/L634-2651 of the 14th September 1927, the President of the District Board of Bangalore was asked to permit Mr. Kennaraguru Rao to hold the Rest Shandy at Yadiyala village as heretofore until the necessary rules for control of Shandies have been framed by Govt.

4th The President of the District Board states that the present contention is based on the petitioner's right to levy fees in support of which he has not established his right, and that he has been neither authorised to levy fees nor has he established his right of ownership to the site and that this unessential treatment in the case of the petitioner as directed by Govt. is likely to lead to many complications in the control and maintenance of Rest Shandies.

5th He solicits therefore for a reconsideration of the orders conveyed in their Office letter of the 14th Sept.r 1927.

6th The Bangalore District Board have got the Bye-laws sanctioned by Govt. for the control of the markets or Shandies under the

E

NOTE—Contn. sheet.

General and Revenue Secretariat. | L.B File No. 4 of 1926.

Serial No.

established by them.

Mr Atherton is invited to parus 116-23 & pa
Containing legal opinion in the matter.
Submitted for orders.

Sdh
19/11/27

Please put up the draft
rules re. regul" of matters—

MO
12/11

Draft Rules are in the bulked file.

Sdh
7/12/27

Letter No. A. 184-161/27-298 26.12.27
from the President, Dist Board of Mangalore.

In State Bail Apl. No. A. R. Kumaraguru
Mod. has filed a suit in the Court of the Second
Munsiff against the District Board and the
Contractor and Bail Summons have been
received from the said Court posting the Case
to the 16th Jany 1928 and requests that
in the circumstances explained in his pre-
vious letter, the G.O may be reconsidered and
orders issued early in the matter.

In the petition received from Mr
Kumaraguru in the Second Munsiff's orders

NOTE—Contn. sheet.

(12)

App. F. III—2

General and Revenue Secretariat. L.R. File No. 4 of 1926.

Serial No.

Memo is placed in the file. No further action on the petition as directed seems to be necessary now.

28/12/27

Regarding the Madivala Shandy.

The District Board were advised to dispose of the dispute with Mr. Kumaraguru Mudaliar in accordance with the view expressed in the Legal Remembrancer's note dated 19th August 1927.

The President reports that Mr. Mudaliar has not established his right to levy fees though the matter has been in correspondence for two years and that the tope in which the Shandy is held is a Government one. He urges also that the rules of August 1923 apply until rules are framed under the New Regulation and that it will be difficult to lay down what Shandies are private ones. It is stated that there are several other shandies held in exactly the same circumstances as this shandy and that if the petitioner is allowed to collect fee without reference to the District Board, the Board's position in relation to the other shandies will become --- uncertain.

It is also reported that Mr. Mudaliar has

These rules were not available in the Secrett & copy had to be got from D.B. Office now

NOTE—Contn. sheet.

WD 0321 -GPB—60,000- 24 5-27

General and Revenue Secretariat. | File No. | of 192

Serial No.

filed a suit in the Civil Court for establishing his right. I submitted this in person to the Member some time ago and he was pleased to say that as the party has taken steps to protect his own interests, Government need not proceed further in this case. The general question raised is, however, one of importance and this, he said, --- might be examined.

(4) For favour of opinion whether the rules of 1923 cannot be considered as being in force till rules are framed under the new regulation and -- whether they apply to this class of cases. It -- seems reasonable to hold that shandies such as -- the one in this case is a "Public" market and to-- apply ~~to~~ the rules of 1923 to them.

Legal Remembrancer)

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. | File No. of 192

Serial No.

48) The ~~Rules~~ bye-laws of 1923 relate to control of public markets in the Bangalore District and in para 2 of the notes of the File relating to these ~~Rules~~ bye-laws there is the remark that the bye-laws apply only to the markets of the District Board. Section 54 of the Mysore District Boards' Regulation says -- that all markets constructed and maintained out of the District Funds shall be deemed to be public -- markets and no public market shall be opened by a District Board without the previous sanction of the Government. In the case under reference, it cannot be denied that the market was a private market under private management. The District Board has taken control of it without any approval of the Government. As a Civil suit is stated to have been filed by the party affected, such markets cannot now be held to be markets and the ~~rules~~ bye-laws of 1923 will not apply to them. The ~~rules~~ bye-laws of 1923 ~~are void~~ are, so far as they are not inconsistent with the provisions of the Mysore District Boards' Regulation, ~~which are~~ in force under the latter Regulation ~~and have been~~.

Gen'l Sec'l with Compts

9-2-28

6570/13?

49) Rep paras 44-47

Finds Remarked

50) The Govt may be pleased to ~~confirm~~ state the legal position.

51) It is said that there are many such private markets, the question of legislation for their control under DC Bd has also to be considered

NOTE—Contn. sheet

WD 0824—GPB—60,000—24-5-27

52) Disp para

General and Revenue Secretariat. LB File No. 4 of 1926.

Serial No.

53) Submitted with a draft for approval

SS 15/2/28 4/2/28

54) [illegible]

17/2 Rec'd 21/2

SS 17/2

54. Issued no. L. 4856 dt 21/2/28. To the President District Board. Bangalore. Informs him of the legal position. (as at Para 48)

Resubmitted as directed in Para 54. As regards the point raised at Para 51 supra. ~~Law section has to be consulted~~

SS 22/2/28.

57) Private markets are licensed by Dt Bds and they are controlled by Dt Bds. What the Pres'at of the Dt Bd wants is that no private person should hold a Sante. The Bds' Regn has prohibited the opening of any new private Santes. Vide Sec 54(2). This the practice in Madras. The Dt Bd has to pay compensation and acquire the rights of the person to hold a private market, if it wants to acquire such rights. If it is considered necessary, provision may be made for

NOTE—Contn. sheet

9994

16

General and Revenue Secretariat. | File No. of 192

Serial No.

the insertion of a section similar to section 180 of the Madras Local Boards Act noted below in the Case of taluk markets.

(1) A taluk board may acquire the rights of any person to hold a private market in any place and to levy fees therein. The acquisition shall be made under the Land Acquisition Act, 1894, and such rights shall be deemed to be land for the purposes of that Act.

(2) On payment by the taluk board of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it, the rights of such person to hold a private market and to levy fees therein shall vest in the taluk board.

2052/27/2

DS 27/2/28

First Member) 57)

DS 27/2

58) Law Dept has dealt with this & may again be requested re the legal effect of A & what Govt can legally do now. If D B does not issue a licence, what happens? If there is no agreement.

Lee 28/2

Law Secy) DS 28/2

Hill Path 27.2.28

NOTE—Contn. sheet.

WD 0324--GPB—60,000—24-5-27

2.12.99

(17)

App. F. III—2]

General and Revenue Secretariat. | File No. 1 of 192

Serial No.	
59	The legal effect of the portion marked A in the paper under disposal i.e., sub-section(2)of section 54 of the Mysore District Board Regulation is that no person should keep open a private market without a license from the District Board. The section does not absolve the District Board from being liable to damages if the license is withheld - illegally. The existence of the market in - question is not denied by the District Board and the action of the Board ~~xxx~~ in assuming management of the same and leasing the right to levy fees therein constitute an important argument to prove that the market was in existence at the commencement of the District Board's Regulation.
60	Government have already intimated to the District Board their opinion in the matter and they can legally do nothing in the matter. The party affected has brought in a suit to protect his interest and the District Board is forced to defend its action or pay damages, if adjudged. The Government ~~need~~ may not therefore do anything in the - matter at present.

7368
8/3

Gen Dept
with Complts
61) First Member

Rly
8/3

8/3
7.3

NOTE—Contn. sheet.

B
62)

Sec
9/3.

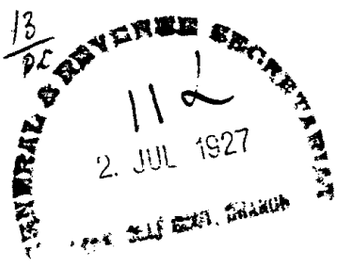
WD 0324 -GPB-60,000-24-5-27

OFFICE OF THE PRESIDENT.
BANGALORE DISTRICT BOARD.

No. 82 Dis 270/26-27

Bangalore 21st June 1927.

en 2 with two Petitions



From

B. ABDUR RAHMON, ESQ., B.A.,
PRESIDENT, DISTRICT BOARD,
BANGALORE.

To

R. RANGA RAO, ESQ., B.A., B.L.,
General Secretary
to the Government of Mysore,
Bangalore.
(THROUGH THE DEPUTY COMMISSIONER, BANGALORE DISTRICT, BANGALORE.)

834-26-45

SIR,

Adverting to your No. L. 8235/L.B. 4-26-39 dated 14th May 1927 on the petition of Mr. A. R [illegible]guru Mudaliar, protesting against the notification and sale of Madiwala Shandy, I have the honour to state as follows:-

Mr. H. Bhasyachar advocate on behalf of the petitioner presented an application and issued a Notice regarding the sale notification of Madiwala Shandy on 13th April 1927.

The petitioner and his Counsel were heard at great length and the matter was fully discussed with his Counsel. The petitioner produced an endorsement issued by the Amildar of Bangalore to his ancestors in the year 1876 or so, wherein it was stated that the Government have approved the holding of the shandy. No reference was produced by the petitioner authorising him or his ancestors to levy fees for their self-benefit. During the course of hearing, the petitioner and his Counsel were explained that the Tope in which Shandy is being held is a Government gomal land, that the levy of fees without the sanction of Government was also un-authorised and that the Board would consider his case in case he proves to the satisfaction of the Board that the holding of shandy and the collection of fees are authorised.

192 —2

From

THE PRESIDENT,

BANGALORE DISTRICT BOARD.

To

Dated

Despatched

Received

General No.

No.

Enclosure No.

(19)

The new District Board Regulation has come into effect from 1st. Februarv 1927 and under Clause (2) of Section 54 no person shall keep open any such market as may have been established prior to the commencement of the regulation unless he obtains from the District Board a license in writing to do so. Since he failed to produce his title through notices were served on him and as the public could not be put to unnecessary inconvenience and trouble by stopping the shandy altogether, on the authority of the New Regulation the sale of the shandy was notified.

These facts were fully explained to the party and his Counsel and advised to produce their titles which they have not done till this day. There were similar complaints for Hindiganal and Krishnarajapur shandies, which are being sold since two four years respectively and the realisation credited to the Taluk and District funds.

These matters were placed before the Standing Committee and the District Board at their meetings held on 1st and 4th June 1927, who resolved that on production of a clear proof of their right and enjoyment they may, out of the entire income, be paid 1/4th in Government villages and 1/3rd in alienated villages and that the shandies should be under the control of the District Board. Copies of resolutions are herein enclosed.

If the applicant proves his title, he will also be paid as per resolutions. The petitions received with the above letter are returned herewith.

DEPUTY COMMISSIONER'S OFFICE
JUN 22 1927
BANGALORE DIST.

C2. Mis 4385/26-7.

I have the honour to be,
Sir,
Your most obedient Servant,

B.K. Lalmon
President, District Board,
Bangalore District.

Forwarded with compliments

Deputy Commissioner,
Bangalore District.

(20

Proceedings of the meeting of the Standing C
the District Board, Bangalore, held on 1-6-
===

xx xx xx

Subject No.11: Letter No.L.5734-41 dated 16-2-19
Secretary to Government requesting the Board to
which fees may be levied for license granted by
Board under Sub Section 2 of Section 56 of Mysor
Boards' Regulation.

Resolution: (d) Markets: It was resolved that t
should be under the control of the District Boar
of the shandies which were or are under the enjo
private persons may be paid 1/4th of the entire
Government villages and 1/3rd income in alienate
on the condition of their production of a clear
their right and enjoyment of such shandies.

xx xx

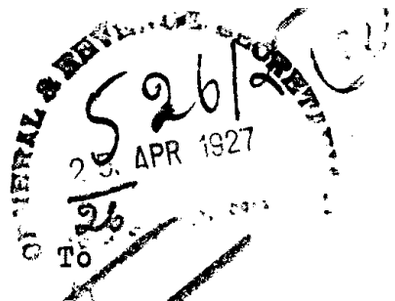
Sd/- B. ABDUR RA
President, Distri
Bangalore Dist

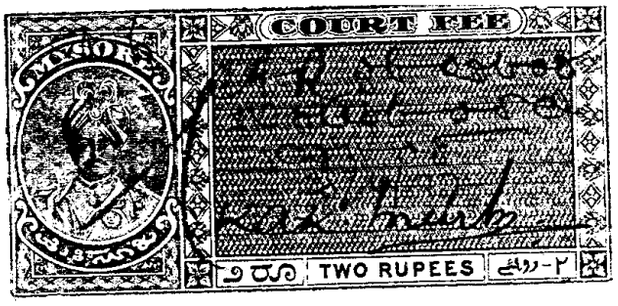
==========

" E x t r a c t "

B A Rahiman

President, District Boar
Bangalore District.





K. C H A N D Y, ESQ., B.A.,

FIRST MEMBER OF COUNCIL,

Government of His Highness the Maharaja of Mysore, BANGALORE.

Petitioner:-

A.R. Kumaraguru Mudaliar, grandson of the late Rai Bahadur Rajasabha Bhushana A.R. Sabhapathi Mudaliar, Member of Council to His Highness the Maharaja of Mysore, Bangalore.

*****

MOST HUMBLY AND RESPECTFULLY SHOWETH:-

1. The petitioner's ancestors were granted Inams near Madivala Village, Bangalore Taluk for the maintenance of a Tope, Chattram, Wells and Avenue Trees.

2. The petitioners were permitted to hold a weekly Shanthe in Annamalay Mudaliar's Tope at Madivala on Thursdays - vide endorsement Nos.53 dated 16th May 1883, No.371 dated the 2nd February 1884 from the Amildar of Bangalore Taluk, based on the Proceedings of the Dewan Sir K. Seshadri Iyer Nos.59 dated 26th June 1883 and No.5435/445 dated 21st January 1884.

3. That ever since the date of the above permission the petitioner and his predecessors having been holding Santhe and levying small fees from stall holders to cover the expenses of the up keep of the Stalls and buildings and conservancy of the said -- santhe.

4. There was no interference or obstruction till now to the petitioner holding the said Santhe.

5. That the said Santhe never came under the control or supervision of the local Revenue Officers or of any Local Board or District Board in pursuance of any provision of law in force.

(23

6. That in the District Board Regulation of 1927 a provision has been laid down in Section 54 (2) to the effect that for the continuance to hold ing any santhe in existence prior to the passing of the Regulation a license should be obtained from the -- District Board.

7. That in accordance with this provision the petitioner has applied for a license the granting of which has been deferred for reasons not known to the petitioner and to his prejudice.

8. That with a view to safeguarding the petitioner's interest in the holding of the said Santhe it is necessary that the petitioner be provided with a <u>provisional license</u> pending the settlement of the question of granting a license in accordance with the said provision of Law.

For which act of grace and justice the petitioner is ever hounden in duty to be.

103. Veera Pillay St,
Bangalore,
25th April 1927

T. R. Kumaraguru

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27)

[illegible]

Sd/- [illegible]

Advocate

True copy

K. Chandy, Esq., B.A. (Cal.)
First Member of Council, to His Highness the
Maharaja of Mysore, Bangalore.

Petitioner:- A.R.Kumaraguru Mudaliar,
Grandson of late Rai Bahadur and Raja-
sabhabushana A.R.Sabapathi Mudaliar,
Member of Council to H.H.the Maharaja
of Mysore, Bangalore.

Re-sale of right of levying market fees at the Madivala Santhe by the Bangalore District Board unauthorisedly.

The petitioner begs to state as follows:- in continuation of his petition dated the 25th April 1927.

1. That Mr. B.Abdul Rahmon, the President, of the Bangalore District Board, has on 28th April 1927 unauthorisedly conducted the sale of the right of levying Market Fees at the Madivala Santhe.

2. That one Mr.Sherifi Sabi has been declared the highest bidder in the sale on a monthly rental of Rs.60/-

3. That the said President has without reason ignored the repeated protests of the petitioner not to hold the sale before disposal of the petitioner's application for the grant of the license under Section 54 of the Mysore District Board Regulation and of the Petitioner's registered Notice to the said President under Section 106 thereof(copy enclosed

4. That the above action of the said President is high-handed and unconditional.

Wherefore the petitioner prays that for the above and other reasons the records of the President of the

District

District Board, Bangalore on the subject may be called and perused and that the sale of the right vested in the petitioner for 40 years and more but unauthorisedly held for the ~~xxxxx~~first time by the President may be graciously cancelled and substantial injustice and injury which would otherwise be caused to the petitioner prevented.

Dated: 10th May 1927
Bangalore.

A. R. Kumaraguru Mudr.

Address:--

A.R.Kumaraguru Mudaliar,
103, Virapillai Street
Bangalore.

Registered Notice

~~Petition~~ from Mr. H.P. Bhashya Char, B.A., Advocate, Balepet Bangalore City, to B. Abdul Rahmon, Esq., B.A., President, District Board, Bangalore, dated the 11th April 1927.

I am instructed by Mr. A.R. Kumaraguru Mudaliar, Jodidar, Annamalay Mudaliar's Palya, Madivala, Bangalore Taluk, to issue to you a notice under Section 106 of the Mysore District Boards' Regulation which I hereby do as follows:-

1. That the holding of a weekly santhe in Annamale Mudaliar's tope, Madivala, Bangalore Taluk, has been in continuous and exclusive possession of my client and his predecessors in title for over 40 years and that such possession is based on orders of Government.

2. That by such continuous and undisturbed possession, my client has acquired an indefeasible prescriptive right of ~~xxxx~~ ownership in regard to the said Santhe.

3. That the said Santhe never belonged to either to the District Board, Bangalore or to the Bangalore Taluk Board.

4. That the neither the District Board, Bangalore or the Bangalore Taluk Board ever took steps in the past by including the said santhe in its annual sale notifications inviting bidders for the purchase of the right of collecting fees at such santhe nor has the present District Board obtained my client's consent or acquired his right before publishing such sale.

5. That consequently the District Board President by his act in publishing has interfered with my client's right to hold the said santhe and caused damage to him.

6. That I am instructed by my client to call upon you to with draw by publishing a fresh notification from holding sale of right of collecting fees in the said Madivala Santhe and to award a suitable compensation viz., Rs.~~1000~~ 100/- for the injury caused to my client by the above sale notification together with Rs.6-4-0 being my fees and postal charges for this notice within the statutory period of 2 months from this date, failing which I have got my client's instructions to take legal

2)

legal proceedings for declaration of his title together with necessary injunction from a competent court.

"C o p y".

AKK

Before the President of the District Board, Bangalore.

Petition No. of 1926-27.

Petitioner:-

A.R. Kumaraguru Mudaliar, Jodidar, residing in Annamale Mudliar's Palya, Madevala Village, Bangalore Taluk.

C/O

Mr. H.P. Bhashya Char, Advocate, Balepet, Bangalore City.

Under Sec.54 (2) of the Mysore District Boards' Regulation 1927, the petitioner above named begs to state as follows:-

1. That the petitioner in pursuance of orders of Govt. is the permanent hakdar to hold a Santhe in Annamalai Mudaliar's Tope at Madivala for over 40 years;

2. That neither the District Board nor the Bangalore Taluk Board has had any right to the ownership of the Santhe in question, nor did either of them exprcise any such right hitherto.

3. That till now there was no statutory power under the Local Boards Regulation for any District Board or Taluk Board to exercise supervision over private markets situated in places not belonging to such Board and not rested in it unless it had duly approved bye laws requiring licenses to be taken. vide Section 38 b (ii) of the Mysore Local Boards and Village Panchayet Regulation, No.VI of 1918.

4. That neither the District Board, Bangalore nor the Taluk Board Bangalore ever had prescribed any such byelaws for the control or supervision of such private markets not belonging to either.

5. That under the present regulation also the District Board has no power to take over such private markets and cartstands situated in places not belonging to the District Board.

6. That the petitioner and his predecessors in title have continuously and exclusively exercised their rights of ownership in regard to the said Santhe and that in consequence of such continuous and exclusive possession they have acquired an indespensable prescriptive right over it.

7. That the present regulation gives to the District Board a power to require the owner of such private Santhes to obtain a license in the prescribed manner for such santhe.

8 Wherefore the petitioner prays that the President, District Board may be pleased to grant him a license for holding the said santhe and that pending disposal of this petition the sale of right of collecting fees at this Santhe notified to be held on 28th April 1927 may be ordered not to be held.

C o p y"

A.R.K.

Sd/- A.H. Kumaraguru Mudaliar,
Petitioner.

Itld/-

H.P.B.
Advocate.

11th April 1927,
Bangalore.

(54

R2 1627/63 4-26-57

To

The President,
District Board, Bangalore. 9/14-9-27

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S i r,

I am directed to invite reference to -- correspondence ending with letter No.D 2.Dis. 270/26-27 dated, the 21st June 1927, submitting a report on the petition of Mr. A.R. Kumaraguru Mudaliar on the subject of the shandy which he was holding on a site in Madivala Village and to state that the action of the District Board in this case is not in accordance with the Law. The District Board have not been given any power to impose any fee for the grant of a license ~~to~~ continuance to hold a market as in this case. Government have reserved to themselves the power to fix the rates of fees under Section 56 (2) of the Regulation b rules made in that behalf. No such rule having been framed by Government as yet, the District Boards cannot levy any fee on a license to be issued by them. Nor until necessary rules with proper safeguards are framed, can the District Board withdraw or control existing rights to ~~kai~~ hold private shandies in accordance with - sanction of Govt. previously given. Such control would be considered ~~interference~~ interference and may give ~~raise~~ rise to litigation, ~~that~~ which on the side of the District Board cannot be sustained. I am to request that the present case be disposed of in accordance with the above view and the petitioner permitted to hold the shandy as heretofore until the necessary rules for the control of shandies have been framed.

I have etc.,

OFFICE OF THE PRESIDENT.
BANGALORE DISTRICT BOARD.

No. C 215/27-28

Bangalore 29th October 1927.

From

B. ABDUR RAHMON, ESQ., B.A.,
PRESIDENT, DISTRICT BOARD,
BANGALORE.

To

R. RANGA RAO, ESQ.. B.A., B.L.,
General Secretary
to the Government of Mysore,
Bangalore.

(THROUGH THE DEPUTY COMMISSIONER, BANGALORE DISTRICT, BANGALORE.)

SIR,

Re: Levy of fees in Madiwal Shandy.

In acknowledging receipt of your letter No. L. 1637/L.B. 4-26-51 dated 17th September 1927 in regard to the Madiwal Shandi of the Bangalore Taluk, I have the honor to state that the absence of any reservation in the Regulation foreshadowing the framing of Rules re: private shandies actuated the District Board to treat all shandies alike.

2. It is to be borne in mind that apart from claims of the present and kindred nature, mostly all the shandies in the District are held on private lands for the convenience of villagers In fact private landholders welcome this action, as it tends to enhance the yielding value of the lands by the manure collected.

3. The principle on which the Board has acted is that all shandies are thus public property and hitherto the Board has not directly maintained or controlled these shandies. If the preser definition of action is to be strictly construed no shandy in the District is likely to come under the Board's control and in a few instances those held in Jodi and strictly private properties are likely to appear more glaring as cases of injustice. notably those named in the margin.

Bettahalsur,
Krishnarajpur
Hindignal
Devangundi
Mudugurki
Sivaganga
Budigere
Mulanahalli,
etc. etc.

4. Section 56 (2) provides as far as I can see power on the

From

THE PRESIDENT,

BANGALORE DISTRICT BOARD.

To

Dated

Despatched

Received

General No.

No.

Enclosure No.

5b

part of Government only to fix the rate of fee for licenses. The District Board have framed bye-laws for levying fees and t the same has been sanctioned by Government in their Order No. 1075/L.B. 46-23-2 dated 6th August 1923. The present contention is based on petitioner's right to levy fees in support of which he has not established his right, though the matter is under correspondence for more than two years. He has been neither authorised to levy fees nor has he established his right of ownership for the tope. The tope is ascertained to be a Government one.

5. If the Government contemplate the issue of separate rules for the conservance and maintenance of private shandies then it will in the first instance have to be defined which of the shandies are to be considered private for which there appears to be no provision in the Regulation. The Board on a consideration of all these questions have resolved to give a portion of the realisations to the persons who establish their right and that all the shandies should be controlled by the District Board as contemplated in the Regulation.

6. Under all these circumstances, I am constrained to think that this exceptional treatment in one case is likely to lead to many complications in the control and maintenance of these shandies and I would therefore submit the matter for reconsideration of Government and I solicit the favour of early orders in the matter.

Ex 1714/27-28

DEPUTY COMMISSIONER'S OFFICE
NOV 4 1927
2033
BANGALORE

Forwarded with compliments

I have the honour to be,
Sir,
Your most obedient Servant,

Deputy Commissioner,
Bangalore District.

President, District Board,
Bangalore District.

37

Bangalore,

21st December 1927.

A. R. Kumaraguru Mudaliyar,

Jodidar, Annamalai Mudaliyar Palya,

Madivala., residing in 103, Veerapilly Street,

BANGALORE.

To

Rajasabhabushana

K. Chandy Esq,. B.A,.

Senior Member of Council, BANGALORE.

Sir,

I humbly beg to invite your kind reference to my petitions dated 25th April 1927, 9th May 1927, 2nd July 1927 and 11th November 1927, regarding the grant of provisional license for holding shante at Annamalai Mudaliyar Palyam, Madivala, and the unauthorised sale of the Shante collections by the President, District Board, Bangalore.

2. It is now nearly eight months since I have appealed to Government for granting me the license for continuing the Shante held by my fore fathers nearly fifty years ago and also to cancel the unauthorised sale by auction by the President, District Board. Up-to-date, I have not been favoured with any orders of Government in the matter.

3. I therefore humbly pray, that early orders may kindly be issued to the President, District Board to cancel the unauthorised sale held by him and also to allow me permission to continue the Shante as heretofore.

For which act of kindness, I shall feel ever thankful.

I have the honour to be,
Sir,
Your most obedient Servant,

A. R. Kumaraguru

OFFICE OF THE PRESIDENT.
BANGALORE DISTRICT BOARD.

No. A 104-101/27-28

Bangalore 26th December 1927.

Immediate

DN o 2995 L.S.
27/12/27

From

B. ABDUR RAHMON, ESQ., B.A.,
PRESIDENT, DISTRICT BOARD,
BANGALORE.

To

R. Ranga Rao, Esq., B.A., B.L.,
General Secretary to the Government of Mysore,
Bangalore.

Sir,

In inviting your kind reference to this office letter No.C. 27-28 dated 3rd November 1927, requesting you for reconsideration your letter No. L.1037/L.B.4-26-51 dated 17th September 1927, in regard to the Madival Shandy, Bangalore Taluk, I have the honor to inform you that Mr. A.R.Kumaraguru Mudaliar has filed a suit in the court of the Second Munsiff against the District Board and the contractor and the summons have been received from the Second Munsiff's Court posting the case to the 16th January 1928.

2. As already explained in my letter, any exceptional treatment the caseof this shandy is likely to lead to many complications in the control and management of so many other shandies and the Board will have to run the risk ofhaving their claims and actions decided in a court of Law. The party did not attempt to do anything till the order under advertance was issued. It may be possible that persons of some other shandies may put forth such claims and then file such suits against the District Board in a Court of Law, and the Board will be put into a very awkard position. So I request you to kindly reconsider the case and pass early orders in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

B.A.Rahmon

President,
District Board

From

THE PRESIDENT,

BANGALORE DISTRICT BOARD.

To

Dated

Despatched

Received

General No.

No.

Enclosure No.

A.P. F. VI. G1]

SUBJECT.....

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Section Lb

File No. 4-26

Serial No. 54

Confidential

No. L4856

Diary No. of letter replied to... L2999

General and Revenue Secretariat

(LB)

the 192

Date of issue 21-2-28

Signed by Mr J K Iyer

To The President DBd Blr

Thro the DC. Bangalore

Sir.

With reference to the correspondence ending with your letter. no. A. 104-101/27- dated 26/12/27, informing us A. R. Kumaragurudas has filed a suit in the Courts of the second Munsiff against the DBd and the Contractor and requesting for a reconsideration of the orders communicated in this office letter. no. 1637 Lb 4-26-57 of 17.9.27, in regard

List of enclosures.....

Copied by .....

Examined by .....

over

WD0325—GPB—30,000—26-5-27

11°

o Madivala Shanoy, I am directed to state that sec 54 of the Mysore Dists Regn Says that all markets constructed and maintained out of the Dist Funds shall be deemed to be public market and no public market shall be opened by a DBd without the previous sanction of Govt. In the present case, it cannot be denied that the market was private market under private management and the DBd has never control of it without approval of Government ~~As a civil suit is stated to have been filed by the party affected,~~ such markets cannot now be held to be pub Mic markets and the byelaws of 1923 will not apply to them. The byelaws of 1923 are, so far as they are not inconsistent with the provisions of the ~~Mysore DBds~~ Said Regulation & applies only to pub Mic markets

Dy 17/ Govt Secy & Ex Officio